

113TH CONGRESS  
2D SESSION

# H. R. 3826

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## AN ACT

To provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Electricity Security  
3 and Affordability Act”.

4 **SEC. 2. STANDARDS OF PERFORMANCE FOR NEW FOSSIL**  
5 **FUEL-FIRED ELECTRIC UTILITY GENERATING**  
6 **UNITS.**

7       (a) **LIMITATION.**—The Administrator of the Environ-  
8 mental Protection Agency may not issue, implement, or  
9 enforce any proposed or final rule under section 111 of  
10 the Clean Air Act (42 U.S.C. 7411) that establishes a  
11 standard of performance for emissions of any greenhouse  
12 gas from any new source that is a fossil fuel-fired electric  
13 utility generating unit unless such rule meets the require-  
14 ments under subsections (b) and (c).

15       (b) **REQUIREMENTS.**—In issuing any rule under sec-  
16 tion 111 of the Clean Air Act (42 U.S.C. 7411) estab-  
17 lishing standards of performance for emissions of any  
18 greenhouse gas from new sources that are fossil fuel-fired  
19 electric utility generating units, the Administrator of the  
20 Environmental Protection Agency (for purposes of estab-  
21 lishing such standards)—

22               (1) shall separate sources fueled with coal and  
23 natural gas into separate categories; and

24               (2) shall not set a standard based on the best  
25 system of emission reduction for new sources within  
26 a fossil-fuel category unless—

(A) such standard has been achieved on average for at least one continuous 12-month period (excluding planned outages) by each of at least 6 units within such category—

(i) each of which is located at a different electric generating station in the United States;

(ii) which, collectively, are representative of the operating characteristics of electric generation at different locations in the United States; and

(iii) each of which is operated for the entire 12-month period on a full commercial basis; and

(B) no results obtained from any demonstration project are used in setting such standard.

(c) COAL HAVING A HEAT CONTENT OF 8300 OR LESS BRITISH THERMAL UNITS PER POUND.—

(1) SEPARATE SUBCATEGORY.—In carrying out subsection (b)(1), the Administrator of the Environmental Protection Agency shall establish a separate subcategory for new sources that are fossil fuel-fired electric utility generating units using coal with an

1 average heat content of 8300 or less British Ther-  
2 mal Units per pound.

3 (2) STANDARD.—Notwithstanding subsection  
4 (b)(2), in issuing any rule under section 111 of the  
5 Clean Air Act (42 U.S.C. 7411) establishing stand-  
6 ards of performance for emissions of any greenhouse  
7 gas from new sources in such subcategory, the Ad-  
8 ministrator of the Environmental Protection Agency  
9 shall not set a standard based on the best system of  
10 emission reduction unless—

11 (A) such standard has been achieved on  
12 average for at least one continuous 12-month  
13 period (excluding planned outages) by each of  
14 at least 3 units within such subcategory—

15 (i) each of which is located at a dif-  
16 ferent electric generating station in the  
17 United States;

18 (ii) which, collectively, are representa-  
19 tive of the operating characteristics of elec-  
20 tric generation at different locations in the  
21 United States; and

22 (iii) each of which is operated for the  
23 entire 12-month period on a full commer-  
24 cial basis; and

1 (B) no results obtained from any dem-  
2 onstration project are used in setting such  
3 standard.

4 (d) TECHNOLOGIES.—Nothing in this section shall be  
5 construed to preclude the issuance, implementation, or en-  
6 forcement of a standard of performance that—

7 (1) is based on the use of one or more tech-  
8 nologies that are developed in a foreign country, but  
9 has been demonstrated to be achievable at fossil  
10 fuel-fired electric utility generating units in the  
11 United States; and

12 (2) meets the requirements of subsection (b)  
13 and (c), as applicable.

14 **SEC. 3. CONGRESS TO SET EFFECTIVE DATE FOR STAND-**  
15 **ARDS OF PERFORMANCE FOR EXISTING,**  
16 **MODIFIED, AND RECONSTRUCTED FOSSIL**  
17 **FUEL-FIRED ELECTRIC UTILITY GENERATING**  
18 **UNITS.**

19 (a) APPLICABILITY.—This section applies with re-  
20 spect to any rule or guidelines issued by the Administrator  
21 of the Environmental Protection Agency under section  
22 111 of the Clean Air Act (42 U.S.C. 7411) that—

23 (1) establish any standard of performance for  
24 emissions of any greenhouse gas from any modified

1 or reconstructed source that is a fossil fuel-fired  
2 electric utility generating unit; or

3 (2) apply to the emissions of any greenhouse  
4 gas from an existing source that is a fossil fuel-fired  
5 electric utility generating unit.

6 (b) CONGRESS TO SET EFFECTIVE DATE.—A rule  
7 or guidelines described in subsection (a) shall not take ef-  
8 fect unless a Federal law is enacted specifying such rule’s  
9 or guidelines’ effective date.

10 (c) REPORTING.—A rule or guidelines described in  
11 subsection (a) shall not take effect unless the Adminis-  
12 trator of the Environmental Protection Agency has sub-  
13 mitted to Congress a report containing each of the fol-  
14 lowing:

15 (1) The text of such rule or guidelines.

16 (2) The economic impacts of such rule or guide-  
17 lines, including the potential effects on—

18 (A) economic growth, competitiveness, and  
19 jobs in the United States;

20 (B) electricity ratepayers, including low-in-  
21 come ratepayers in affected States;

22 (C) required capital investments and pro-  
23 jected costs for operation and maintenance of  
24 new equipment required to be installed; and

1 (D) the global economic competitiveness of  
2 the United States.

3 (3) The amount of greenhouse gas emissions  
4 that such rule or guidelines are projected to reduce  
5 as compared to overall global greenhouse gas emis-  
6 sions.

7 (d) CONSULTATION.—In carrying out subsection (c),  
8 the Administrator of the Environmental Protection Agen-  
9 cy shall consult with the Administrator of the Energy In-  
10 formation Administration, the Comptroller General of the  
11 United States, the Director of the National Energy Tech-  
12 nology Laboratory, and the Under Secretary of Commerce  
13 for Standards and Technology.

14 **SEC. 4. REPEAL OF EARLIER RULES AND GUIDELINES.**

15 The following rules and guidelines shall be of no force  
16 or effect, and shall be treated as though such rules and  
17 guidelines had never been issued:

18 (1) The proposed rule—

19 (A) entitled “Standards of Performance  
20 for Greenhouse Gas Emissions for New Sta-  
21 tionary Sources: Electric Utility Generating  
22 Units”, published at 77 Fed. Reg. 22392 (April  
23 13, 2012); and

24 (B) withdrawn pursuant to the notice enti-  
25 tled “Withdrawal of Proposed Standards of

1 Performance for Greenhouse Gas Emissions for  
2 New Stationary Sources: Electric Utility Gener-  
3 ating Units”, signed by the Administrator of  
4 the Environmental Protection Agency on Sep-  
5 tember 20, 2013, and identified by docket ID  
6 number EPA–HQ–OAR–2011–0660.

7 (2) The proposed rule entitled “Standards of  
8 Performance for Greenhouse Gas Emissions from  
9 New Stationary Sources: Electric Utility Generating  
10 Units”, signed by the Administrator of the Environ-  
11 mental Protection Agency on September 20, 2013,  
12 and identified by docket ID number EPA–HQ–  
13 OAR–2013–0495.

14 (3) With respect to the proposed rule described  
15 in paragraph (1), any successor or substantially  
16 similar proposed or final rule that—

17 (A) is issued prior to the date of the enact-  
18 ment of this Act;

19 (B) is applicable to any new source that is  
20 a fossil fuel-fired electric utility generating unit;  
21 and

22 (C) does not meet the requirements under  
23 subsections (b) and (c) of section 2.



1           (4) Any proposed or final rule or guidelines  
2           under section 111 of the Clean Air Act (42 U.S.C.  
3           7411) that—

4                   (A) are issued prior to the date of the en-  
5                   actment of this Act; and

6                   (B) establish any standard of performance  
7                   for emissions of any greenhouse gas from any  
8                   modified or reconstructed source that is a fossil  
9                   fuel-fired electric utility generating unit or  
10                  apply to the emissions of any greenhouse gas  
11                  from an existing source that is a fossil fuel-fired  
12                  electric utility generating unit.

13 **SEC. 5. DEFINITIONS.**

14       In this Act:

15           (1) **DEMONSTRATION PROJECT.**—The term  
16           “demonstration project” means a project to test or  
17           demonstrate the feasibility of carbon capture and  
18           storage technologies that has received Federal Gov-  
19           ernment funding or financial assistance.

20           (2) **EXISTING SOURCE.**—The term “existing  
21           source” has the meaning given such term in section  
22           111(a) of the Clean Air Act (42 U.S.C. 7411(a)),  
23           except such term shall not include any modified  
24           source.

1           (3) GREENHOUSE GAS.—The term “greenhouse  
2       gas” means any of the following:

3                   (A) Carbon dioxide.

4                   (B) Methane.

5                   (C) Nitrous oxide.

6                   (D) Sulfur hexafluoride.

7                   (E) Hydrofluorocarbons.

8                   (F) Perfluorocarbons.

9           (4) MODIFICATION.—The term “modification”  
10       has the meaning given such term in section 111(a)  
11       of the Clean Air Act (42 U.S.C. 7411(a)).

12           (5) MODIFIED SOURCE.—The term “modified  
13       source” means any stationary source, the modifica-  
14       tion of which is commenced after the date of the en-  
15       actment of this Act.

16           (6) NEW SOURCE.—The term “new source” has  
17       the meaning given such term in section 111(a) of  
18       the Clean Air Act (42 U.S.C. 7411(a)), except that  
19       such term shall not include any modified source.

      Passed the House of Representatives March 6,  
2014.

Attest:

*Clerk.*



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To provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.